

REMARKS

Claims 1, 3-27 and 29-42 are now present in this application.

Claim 42 has been presented. Reconsideration of the application, as amended, is respectfully requested.

The instant amendment is supplemental to the After Final Amendment filed on June 14, 2004. That Amendment should be entered at least for purposes of appeal because the issues for appeal are simplified. Therefore, the present amendment is based on entry of said earlier amendment. As will be explained below, the present amendment should also be entered and the application should be allowed.

Claims 4-9 stand rejected under 35 U.S.C. 112, second paragraph. Again, this rejection is respectfully traversed.

For the reasons given in the June 14, 2004 Amendment, this rejection should now be overcome and withdrawn.

Claims 1, 3-27 and 29-41 stand rejected under 35 U.S.C. 103 as being unpatentable over Kmetec et al., (U.S. 5,757,831) in view of Bergmann (U.S. Patent 6,128,133). This rejection is respectfully traversed.

For the reasons given in the June 14, 2004 After Final Amendment, this rejection should be overcome. In addition, the present Supplemental Amendment presents independent claim 42. This independent claim 42 corresponds to claim 1 and further recites that the secondary output light beam is non-zero. This arrangement

is seen in Figs. 3 and 4, for example. As has previously been explained in the June 14, 2004, Bergmann's reference would not show the system or method of the present application. The non-presence of the secondary light beam in Bergmann should not be interpreted as being a fixed percentage of zero percent. Claim 42 expressly brings out that the secondary output light beam is non-zero. If this were not the case, the detector would not be able to measure the power of the secondary beam and thus no control signal would be given to adjust the output power of the primary light beam. As has been explained, a failure signal would be given in the best case but in the worst case, a signal indicating that power of the primary output light beam should be increased would be given. In either arrangement, the output power of the primary output light beam would not be kept substantially constant. With the reference of a non-zero secondary output light beam in independent claim 42, the Bergmann reference should not be considered to read on this claim.

Nonetheless as been set forth in the June 14, 2004 Amendment and as set forth above, all claims in the instant application should now be in condition for allowance. Reconsideration and withdrawal of the 35 U.S.C. 103 rejections are respectfully requested.

Conclusion

In the event the Examiner does not consider this application to be in condition for allowance, it is respectfully requested that this Supplemental Amendment to be in condition for allowance, it is respectfully requested that it also be entered for the purposes of an appeal. It should nonetheless be unnecessary to proceed to appeal because the instant application should now be in condition for allowance.

Favorable reconsideration and an early Notice of Allowance are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at (703) 205-8000 in the Washington, D.C. area, to conduct an interview in an effort to expedite prosecution in connection with the present application.

Because the June 14, 2004 After Final Amendment was timely filed with a one (1) month extension of time and because the instant Supplemental Amendment is being filed within this extended time period, no additional extensions of time should be necessary.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By   
Joe McKinney Muncy #32,334

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

KM/ndb  
0459-0700P

Attachment(s)